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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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0070504-199 007077-00 0940

0070504-199

EXAMINER

10/21/07/10

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ART UNIT

PAPER NUMBER

1/01

DATE MAILED:

07/10/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/693,499

Applicant(s)

Ono et al

Examiner

Curtis E. Sherrer

Group Art Unit

1761



☒ Responsive to communication(s) filed on Apr 3, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-28 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-28 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1302

Part III DETAILED ACTION

Claim Objections

1. Claims 1 to 28 are objected to because of the following informalities: The phrase “-acids(s)” should be ---acids(g)---. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Claims 1 to 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. There is no antecedent basis for the phrase “the original hops.”

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 3 to 6 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Laws et al (Jnl. Inst. of Brewing, Vol. 87, pp. 252-58).

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6. Laws et al teach that the production of oil rich hop extracts whereby the ratio of oil has increased, relative to the acids, by more than two (see Table 1). The Office does not have the facilities for examining and comparing Applicants' products with the products of the prior art in order to establish that the product of the prior art does not possess the same material structural and functional characteristics of the claimed products. In the absence of evidence to the contrary, the burden is upon the applicant to prove that the claimed products are functionally different than those taught by the prior art and to establish patentable differences. See *In re Best*, 562 F.2d 1252, 195 U.S.P.Q. 430 (CCPA 1977); *Ex parte Gray*, 10 U.S.P.Q.2d 1922, 1923 (BPAI).

Conclusion

7. No claim is

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Sherrer whose telephone number is (703) 308-3847. The examiner can normally be reached on Monday through Friday from 6:00 to 2:30.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Lacey, can be reached on (703)-308-3535. The fax phone number for this Group is (703)-305-3602.

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10. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

A handwritten signature in black ink, appearing to read "Curtis E. Sherrer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Curtis E. Sherrer

July 6, 1998